

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht Chair
Jay Scott Emler
Pat Apple

In the Matter of the Investigation of)
Kansas Gas Service, a Division of ONE Gas,) Docket No. 14-DPAX-572-PEN
Inc. Regarding Violations of the Kansas)
Underground Utility Damage Prevention Act)
.

NOTICE OF FILING OF REPORT AND RECOMMENDATION

Staff hereby files a Report and Recommendation, attached hereto and made a part hereof by reference. The Report and Recommendation provides analysis of Kansas Gas Service's failure to comply with the Kansas Underground Utility Damage Prevention Act and makes recommendations.

Respectfully submitted,



Robert A. Fox #10260
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027
(785) 271-3118

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Christie Knight, Damage Prevention Special Investigator
Leo Haynos, Chief of Pipeline Safety
Jeff McClanahan, Director of Utilities

DATE: June 9, 2014

DATE SUBMITTED TO LEGAL: 6/9/14

DATE SUBMITTED TO COMMISSIONERS: 6/12/14

SUBJECT: Docket Number: 14-DPAX-572-PEN

In the Matter of the Investigation of Kansas Gas Service, A Division of ONE Gas, Regarding Violations of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, *et seq.*, and K.A.R. 82-14-1 through 82-14-5), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151).

EXECUTIVE SUMMARY:

Staff is recommending a civil penalty be issued to Kansas Gas Service, A Division of ONE Gas (KGS), in the amount of \$500 for violation(s) of KUUDPA. The penalty is based on results of a Staff investigation following damage to a KGS natural gas service line in Kansas City, Kansas. Failure to provide the excavator with the location of the tolerance zone of the buried facility before excavation begins is a violation of K.S.A. 66-1806 (a).

BACKGROUND:

On February 19, 2014, Rodriguez Mechanical (Rodriguez) damaged a KGS ¾-inch PE natural gas service line at 1255 Merriam Lane in Kansas City, Kansas, while excavating during a water main install for BPU with a mini excavator. There was one outage of service due to the damage and no injuries. The excavator was unable to continue with this work for approximately one hour. A brief timeline of events is attached (Attachment I). A Notice of Probable Noncompliance was issued to KGS on March 17, 2014 (Attachment II). On April 25, 2014, KGS responded to the Notice of Probable Noncompliance as required by K.A.R. 82-14-6(c).

ANALYSIS:

Rationale for Penalties:

A. Gravity of noncompliance:

In this case, KGS had indicated the buried gas service line was 41 feet away from the actual location at which the line was encountered by the excavator. Once an excavator notifies underground utility operators of a planned excavation, each operator with facilities buried at that site must provide surface markings that indicate where the utilities are located within 24 inches of either side of the position of the buried facility. This 48 inch corridor is defined as the "tolerance zone". Failure in providing accurate locate marks depicting the tolerance zone is a high-risk activity with the potential for significant consequences to public safety. Inaccurate locates further serve to give the excavator a false sense of security by indicating the buried facilities are not in the vicinity of the excavation. This effect may result in the excavator causing even greater damage to the utility because of the speed and force with which excavation normally is performed in areas clear of underground obstacles. Because providing proper and accurate markings for the excavators is the most fundamental measure a facility owner takes to prevent damage to its buried facilities, the fact that KGS failed to comply with this requirement of the law warrants the assessment of a civil penalty.

B. Culpability:

KGS is directly responsible for its actions in failing to provide accurate locates as Kansas law requires.

C. History of noncompliance:

Staff has issued other KUUDPA Notices of Probable Noncompliance to KGS in the past two years. These violations were for similar issues.

D. Response of excavator regarding noncompliance(s):

KGS agreed with Staff's findings described in the Notice of Probable Noncompliance. The line in question was marked using inaccurate maps for reference. As a result of this damage, KGS has replaced this service from the tap to the meter and now has wire installed as well. A new service card has been made with accurate measurements and is now accurately locatable using tone or measurements. Staff concludes there are no extenuating circumstances in this case to mitigate the recommended penalty for failure to provide accurate locate markings.

E. Aggravating/Mitigating Circumstances:

Staff has not determined any circumstances that would cause us to modify the recommended penalty amount of \$500.

RECOMMENDATION:

Staff recommends a civil penalty be issued to Kansas Gas Service, a Division of One Gas, in the amount of \$500 for violation(s) of KUUDPA:

- Failure of a facility owner to properly identify location of facilities is a violation of K.S.A. 66-1806, Identification of location of facilities; duties of operator; liability for damages.

Attachments

ATTACHMENT I

Timeline:

- 2/19/2014 At approximately 7:56 a.m., Staff received an email notification from KGS dispatcher, indicating a damaged line at 1255 Merriam Lane in Kansas City, Kansas.
- At approximately 8:30 a.m., the leaking gas was shut off, a new service line was installed with tracer wire and the excavator was allowed to continue with its work during this installation.
- Staff arrived on-site at approximately 8:41 a.m. and subsequently conducted an on-site investigation of the excavation site described above. Staff learned from conversations on-site with Rodriguez, that notification was made to Kansas One Call for a ticket prior to excavating, ticket #14038809, with a work to begin date of 2/13/2014. This was later confirmed through research of the Kansas One Call database that there was, in fact, a Kansas One Call ticket obtained by Rodriguez for this area prior to excavating.
- During the investigation Staff observed locate marks and flags at the excavation site; however, these marks did not accurately depict the allowed 24 inch tolerance zone within the requested area provided by Rodriguez. Upon completion of the investigation and research, Staff determined that KGS had located with paint and flags the requested area using a method of measurements which gave an inaccurate marking. The inaccuracy resulted in the marks indicating the location of the buried gas service being approximately 41 feet from where the damage occurred, therefore violating KUUDPA.
- 3/17/2014 Staff issued KGS a Notice of Probable Noncompliance for violating KUUDPA as stated above.
- 4/25/2014 Staff received KGS's response to the Notice of Probable Noncompliance as required by K.A.R. 82-14-6(c).

ATTACHMENT II

PROBABLE NONCOMPLIANCE

KCC Investigation # 6669

COMPANY: Kansas Gas Service

DIVISION: Overland Park

APR 25 2014

REGULATION:

66-1806 Identification of location of facilities; duties of operator; liability for damages.

(a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

PROBABLE NONCOMPLIANCE DESCRIPTION:

On 2/19/2014, Rodriguez Mechanical damaged a KGS 3/4" PE gas service line with a mini excavator during a water main install for BPU at 1255 Merriam Lane in Kansas City, Kansas. There was a valid One-Call ticket #14038809 with a due date of 2/13/2014. There were locating marks present and out of tolerance by approximately 41 ft. Locates were marked by measurements. There was no tracer wire present at the damage site. This is a violation of the Statute K.S.A. 66-1806 Identification of location of facilities; duties of operator; liability for damages. (a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

OPERATOR'S RESPONSE: (Attach verification if needed) SEE ATTACHED

Operator's authorized signature: Bell Harris

Date: 4/25/2014

PIPELINE SAFETY USE ONLY

Date Reviewed: _____ Date Reviewed: _____
Supervisor: _____ Inspector: _____

Inspected by: Knight
Date Inspected: 2/19/2014
Inspection type: Bad Maps



**Kansas
Gas Service.**

A Division of ONE Gas

7421 West 129th Street
Overland Park, KS 66213
kansasgasservice.com

April 25, 2014

Mr. Leo Haynos
Chief of Pipeline Safety
Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, Kansas 66604-0427

**RE: Operator Response – KCC Notice of Probable Noncompliance
KCC #6869, 1255 Merriam Lane, Kansas City, KS.**

Dear Mr. Haynos,

Please find attached the Operator Response for KCC Notice of Probable Noncompliance
Investigation Notice #6869 in Kansas City, Kansas.

If you have any questions, please contact me at (785) 431-4272

Sincerely,

Bill Haislip
Kansas Gas Service

Encl: (2) Operator Response – KCC #6869

KANSAS CORPORATION COMMISSION

APR 25 2014

UTILITIES DIVISION

Notice of Probable Noncompliance – KCC #6869

On 2/19/2014, Rodriguez Mechanical damaged a KGS ¾" PE gas service line with a mini excavator during a water main install for BPU at 1255 Merriam Lane in Kansas City, Kansas. There was a valid One-Call ticket #14038809 with a due date of 2/13/2014. There were locating marks present and out of tolerance by approximately 41 ft. Locates were marked by measurements. There was no tracer wire present at the damage site. This is a violation of the Statute 66-1806 Identification of location of facilities; duties of operator: liability for damages. (a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

Operator Response: The operator and locate vendor (USIC) conducted a joint investigation of the damages at 1255 Merriam Lane, Kansas City, KS.

This service had no wire and measurements were not accurate. As a result of this damage, this service was replaced from the tap to the meter and now has wire installed with it. A new service card was made with accurate measurements. This service is now accurately locatable using tone or measurements.

CERTIFICATE OF SERVICE

14-DPAX-572-PEN

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Report and Recommendation was placed in the United States mail, postage prepaid, or hand-delivered this 12th day of June, 2014, to the following:

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Pamela Griffeth
Administrative Specialist